

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ESTHER HOFFMAN, et al.,
Plaintiffs,

vs.

TRANSWORLD SYSTEMS
INCORPORATION; et al.,

Defendants.

NO. C18-1132 TSZ

TRUST DEFENDANTS' AMENDED
ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFFS' SECOND
AMENDED COMPLAINT

Defendants National Collegiate Student Loan Trust 2004-2 (the "2004-2 Trust"), National Collegiate Student Loan Trust 2005-2 (the "2005-2 Trust"), National Collegiate Student Loan Trust 2005-3 (the "2005-3 Trust"), National Collegiate Student Loan Trust 2006-1 (the "2006-1 Trust"), National Collegiate Student Loan Trust 2006-3 (the "2006-3 Trust"), and National Collegiate Student Loan Trust 2007-4 (the "2007-4 Trust", collectively, the "Trust Defendants") submit this amended answer and affirmative defenses to Plaintiffs' Second Amended Complaint (ECF 61, the "SAC") as follows:

TRUST DEFENDANTS' AMENDED ANSWER
AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' SECOND
AMENDED COMPLAINT - 1
Case No. C18-1132 TSZ

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I. INTRODUCTION

To the extent any response is required, the Trust Defendants deny any and all allegations contained in the “Introduction” to Plaintiffs’ SAC.

II. JURISDICTION AND VENUE

1. The Trust Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 1, except to admit that this action was removed from King County Superior Court by Transworld Systems Incorporated (“TSI”), Patenaude and Felix, A.P.C. (“P&F”) and Matthew Cheung.

2. The Trust Defendants admit the first sentence of Paragraph 2. The second sentence alleges legal conclusions to which no response is required.

3. The allegations in Paragraph 3 are legal conclusions to which no response is required.

III. THE PARTIES

4. The Trust Defendants admit Esther Hoffman is a person. The remaining allegations in Paragraph 4 are legal conclusions to which no response is required. To the extent the allegations call for an answer, the Trust Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 4.

5. The Trust Defendants admit that Sarah Douglass is a person. The remaining allegations in Paragraph 5 are legal conclusions to which no response is required. To the extent the allegations call for an answer, the Trust Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 5.

6. The Trust Defendants admit that Anthony Kim is a person. The remaining allegations in Paragraph 6 are legal conclusions to which no response is required. To the extent the allegations call for an answer, the Trust Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 6.

1 7. The Trust Defendants admit that Daria Kim is a person. The remaining
 2 allegations in Paragraph 7 are legal conclusions to which no response is required. To the extent
 3 the allegations call for an answer, the Trust Defendants lack knowledge and information
 4 sufficient to form a belief as to the truth of the allegations in Paragraph 7.

5 8. The Trust Defendants admit that Il Kim is a person. The remaining allegations in
 6 Paragraph 8 are legal conclusions to which no response is required. To the extent the
 7 allegations call for an answer, the Trust Defendants lack knowledge and information sufficient
 8 to form a belief as to the truth of the allegations in Paragraph 8.

9 9. The Trust Defendants admit, solely as to themselves, that they are each trusts
 10 organized under the laws of the State of Delaware. The Trust Defendants lack knowledge and
 11 information sufficient to form a belief as to the truth of the remaining allegations in Paragraph
 12 9.

13 10. The allegations in Paragraph 10 are legal conclusions to which no response is
 14 required. To the extent a response is required, the Trust Defendants deny the allegations in
 15 Paragraph 10.

16 11. The allegations in Paragraph 11 are legal conclusions to which no response is
 17 required. To the extent a response is required, the Trust Defendants deny the allegations in
 18 Paragraph 11 except admit that they retain loan servicers to service the loans they hold.

19 12. The allegations in Paragraph 12 are legal conclusions to which no response is
 20 required. To the extent a response is required, the Trust Defendants deny the allegations in
 21 Paragraph 12, except admit that they have retained TSI to service loans on their behalf and
 22 have retained P&F to provide legal services.

23 13. The Trust Defendants lack knowledge and information sufficient to form a
 24 belief as to the truth of the allegations in Paragraph 13.

1 14. The Trust Defendants lack knowledge and information sufficient to form a
2 belief as to the truth of the allegations in Paragraph 14.

3 15. The Trust Defendants lack knowledge and information sufficient to form a
4 belief as to the truth of the allegations in Paragraph 15, except the Trust Defendants admit that
5 they hold student loan debt and that they retain servicers, including TSI, to service the loans.

6 16. The allegations in Paragraph 16 are legal conclusions and to which no response
7 is required. To the extent a response is required, the Trust Defendants lack knowledge and
8 information sufficient to form a belief as to the truth of the allegations in Paragraph 16.

9 17. The allegations in Paragraph 17 are legal conclusions to which no response is
10 required. To the extent a response is required, the Trust Defendants lack knowledge and
11 information sufficient to form a belief as to the truth of the allegations in Paragraph 17.

12 18. The allegations in Paragraph 18 are legal conclusions to which no response is
13 required. To the extent a response is required, the Trust Defendants lack knowledge and
14 information sufficient to form a belief as to the truth of the allegations in Paragraph 18.

15 19. The allegations in Paragraph 19 are legal conclusions to which no response is
16 required. To the extent a response is required, the Trust Defendants lack knowledge and
17 information sufficient to form a belief as to the truth of the allegations in Paragraph 19.

18 20. To the extent Paragraph 20 alleges that the Trust Defendants created agency
19 relationships with TSI or NCO, who in turn created further agency relationships with other
20 entities to undertake debt collection on behalf of the Trust Defendants, those are legal
21 conclusions to which no response is required. To the extent an answer is required, the Trust
22 Defendants admit that they have retained TSI as a loan servicer. The Trust Defendants deny
23 that TSI directs all servicing efforts in the State of Washington on their behalf. The Trust
24 Defendants admit that TSI does manage the conduct of some litigation on behalf of the Trust
25 Defendants in the State of Washington. The Trust Defendants deny that all of the actions
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1 alleged in this complaint were taken for the benefit of the Trust Defendants. The Trust
2 Defendants lack knowledge and information sufficient to form a belief as to the truth of the
3 remaining allegations in Paragraph 20.

4 21. The Trust Defendants lack knowledge and information sufficient to form a
5 belief as to the truth of the allegations in Paragraph 21.

6 22. The Trust Defendants lack knowledge and information sufficient to form a
7 belief as to the truth of the allegations in Paragraph 22.

8 23. The Trust Defendants lack knowledge and information sufficient to form a
9 belief as to the truth of the allegations in Paragraph 23.

10 24. The Trust Defendants lack knowledge or information sufficient to form a belief
11 as to the truth of the allegations in Paragraph 24, except the Trust Defendants admit that P&F
12 has acted as counsel for the Trust Defendants in lawsuits filed in the State of Washington.

13 25. The allegations in Paragraph 25 are legal conclusions to which no response is
14 required. To the extent a response is required, the Trust Defendants admit that P&F has sent
15 letters on their behalf to borrowers in Washington in connection with student loans held by the
16 Trust Defendants. The Trust Defendants lack knowledge or information sufficient to form a
17 belief as to the truth of the allegations in Paragraph 25 to the extent they relate to persons or
18 entities other than the Trust Defendants.

19 26. The Trust Defendants lack knowledge and information sufficient to form a
20 belief as to the truth of the allegations in Paragraph 26.

21 27. The allegations in Paragraph 27 are legal conclusions to which no response is
22 required. To the extent a response is required, the Trust Defendants lack knowledge and
23 information sufficient to form a belief as to the truth of the allegations in Paragraph 27.

1 28. The allegations in Paragraph 28 are legal conclusions to which no response is
2 required. To the extent a response is required, the Trust Defendants lack knowledge and
3 information sufficient to form a belief as to the truth of the allegations in Paragraph 28.

4 29. The allegations in Paragraph 29 are legal conclusions to which no response is
5 required. To the extent a response is required, the Trust Defendants deny the allegations in
6 Paragraph 29 so far as they relate to the Trust Defendants. The Trust Defendants lack
7 knowledge and information sufficient to form a belief as to the truth of the allegations in
8 Paragraph 29 relating to persons or entities other than the Trust Defendants.

9 30. The Trust Defendants lack knowledge and information sufficient to form a
10 belief as to the truth of the allegations in Paragraph 30.

11 31. The allegations in Paragraph 31 are legal conclusions to which no response is
12 required. To the extent a response is required, the Trust Defendants lack knowledge and
13 information sufficient to form a belief as to the truth of the allegations in Paragraph 31.

14 32. The allegations in Paragraph 32 are legal conclusions to which no response is
15 required. To the extent a response is required, the Trust Defendants lack knowledge and
16 information sufficient to form a belief as to the truth of the allegations in Paragraph 32.

17 33. The allegations in Paragraph 33 are legal conclusions to which no response is
18 required. To the extent a response is required, the Trust Defendants deny the allegations in
19 Paragraph 33 so far as they relate to the Trust Defendants. The Trust Defendants lack
20 knowledge or information sufficient to form a belief as to the truth of the allegations in
21 Paragraph 33 to the extent they relate to persons or entities other than the Trust Defendants.

22 34. The allegations in Paragraph 34 are legal conclusions to which no response is
23 required. To the extent a response is required, the Trust Defendants deny the allegations in
24 Paragraph 34 so far as they relate to the Trust Defendants. The Trust Defendants lack
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1 knowledge or information sufficient to form a belief as to the truth of the allegations in
2 Paragraph 34 to the extent they related to persons or entities other than the Trust Defendants.

3 35. The allegations in Paragraph 35 are legal conclusions to which no response is
4 required. To the extent an answer is required, the Trust Defendants lack knowledge and
5 information sufficient to form a belief as to the truth of the allegations in Paragraph 35.

6 36. The allegations in Paragraph 36 are legal conclusions to which no response is
7 required. To the extent an answer is required, the Trust Defendants lack knowledge and
8 information sufficient to form a belief as to the truth of the allegations in Paragraph 36.

9 37. The allegations in Paragraph 37 are legal conclusions to which no response is
10 required. To the extent a response is required, Trust Defendants lack knowledge and
11 information sufficient to form a belief as to the truth of the allegations in Paragraph 37.

12 38. The allegations in Paragraph 38 are legal conclusions to which no response is
13 required. To the extent a response is required, the Trust Defendants admit they have retained
14 P&F as attorneys to represent them in lawsuits in the State of Washington. Trust Defendants
15 deny the remaining allegations in Paragraph 38 to the extent they relate to the Trust
16 Defendants. The Trust Defendants lack knowledge or information sufficient to form a belief as
17 to the truth of the allegations in Paragraph 38 to the extent they related to persons or entities
18 other than the Trust Defendants.

19 39. The Trust Defendants lack knowledge or information sufficient to form a belief
20 as to the truth of the allegations in Paragraph 39.

21 40. The Trust Defendants lack knowledge or information sufficient to form a belief
22 as to the truth of the allegations in Paragraph 40.

23 41. The allegations in Paragraph 41 are legal conclusions to which no response is
24 required. To the extent a response is required, the Trust Defendants deny the allegations in
25 Paragraph 41.

1 IV. FACTS

2 A. Plaintiff Esther Hoffman.

3 42. The 2004-2 Trust admits the allegations in Paragraph 42. The remaining Trust
4 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
5 allegations contained in Paragraph 42.

6 43. The Trust Defendants lack knowledge or information sufficient to form a belief
7 as to the truth of the allegations contained in Paragraph 43.

8 44. The Trust Defendants lack knowledge or information sufficient to form a belief
9 as to the truth of the allegations contained in Paragraph 44. The 2004-2 Trust does admit that
10 the amounts due on Esther Hoffman's loan were not paid.

11 45. The Trust Defendants lack knowledge or information sufficient to form a belief
12 as to the truth of the allegations in Paragraph 45, except the 2004-2 Trust admits that it filed a
13 lawsuit against Esther Hoffman and that Esther Hoffman made some small payments to P&F.

14 46. The Trust Defendants lack knowledge or information sufficient to form a belief
15 as to the truth of the allegations in Paragraph 46.

16 47. The 2004-2 Trust admits that it filed a lawsuit styled *National Collegiate*
17 *Student Loan Trust 2004-2 v. Esther Hoffman* (Snohomish County Superior Court Case No. 16-
18 2-15162-31) on June 8, 2016 and states that the docket and filings in that action speak for
19 themselves. The remaining Trust Defendants lack knowledge or information sufficient to form
20 a belief as to the truth of the allegations contained in Paragraph 47.

21 48. The 2004-2 Trust admits the allegations in Paragraph 48. The remaining Trust
22 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
23 allegations contained in Paragraph 48.

1 49. The 2004-2 Trust admits the allegations in Paragraph 49. The remaining Trust
2 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
3 allegations contained in Paragraph 49.

4 50. The Trust Defendants state that Mr. Turner's affidavit speaks for itself.

5 51. The 2004-2 Trust admits that a document entitled Pool Supplement was attached
6 to Mr. Turner's affidavit. The 2004-2 Trust admits that the Pool Supplement attached to Mr.
7 Turner's affidavit has a footer that reads in part "http://www.sec.gov/Archives/edgar/data/".
8 The 2004-2 Trust denies any remaining allegations in Paragraph 51. The remaining Trust
9 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
10 allegations contained in Paragraph 51. All of the Trust Defendants state that the Pool
11 Supplement speaks for itself.

12 52. The 2004-2 Trust admits that page 4 of the Pool Supplement attached to Mr.
13 Turner's affidavit is entitled Schedule 2. The remaining Trust Defendants lack knowledge or
14 information sufficient to form a belief as to the truth of the allegations contained in Paragraph
15 52. All of the Trust Defendants state that the page entitled Schedule 2 speaks for itself.

16 53. The 2004-2 Trust admits that the "2004-2 Sale Agreement" was attached to Mr.
17 Turner's affidavit. The remaining Trust Defendants lack knowledge or information sufficient to
18 form a belief as to the truth of the allegations contained in Paragraph 58. All of the Trust
19 Defendants state that the "2004-2 Sale Agreement" speaks for itself.

20 54. The Trust Defendants state that the "2004-2 Sale Agreement" speaks for itself.

21 55. The Trust Defendants state that Mr. Turner's affidavit speaks for itself.

22 56. The Trust Defendants deny the allegations in Paragraph 56.

23 57. The Trust Defendants deny the allegations in Paragraph 57.

24 58. The 2004-2 Trust states that the docket and referenced filings in *National*
25 *Collegiate Student Loan Trust 2004-2 v. Esther Hoffman* (Snohomish County Superior Court
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1 Case No. 16-2-15162-31) speak for themselves. The remaining Trust Defendants
2 lack knowledge or information sufficient to form a belief as to the truth of the allegations
3 contained in Paragraph 58.

4 59. The 2004-2 Trust admits that garnishment papers were sent directly to
5 Hoffman's last known address, as required by Washington statute, RCW 6.27.130(1). The
6 remaining Trust Defendants lack knowledge or information sufficient to form a belief as to the
7 truth of the allegations in Paragraph 59.

8 60. The Trust Defendants state that the documents referenced in Paragraph 60 speak
9 for themselves.

10 61. The Trust Defendants lack knowledge or information sufficient to form a belief
11 as to the truth of the allegations in Paragraph 61.

12 62. The Trust Defendants lack knowledge or information sufficient to form a belief
13 as to the truth of the allegations in Paragraph 62.

14 63. The Trust Defendants lack knowledge or information sufficient to form a belief
15 as to the truth of the allegations in Paragraph 63.

16 64. The Trust Defendants admit that TSI entered into a Consent Order with the
17 CFPB and state that the TSI Consent Order speaks for itself. The Trust Defendants deny the
18 allegations in Paragraph 64 to the extent they purport to relate to the Trust Defendants. The
19 Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 64 to the extent they relate to persons or entities other than the Trust
21 Defendants.

22 65. The Trust Defendants lack knowledge or information sufficient to form a belief
23 as to the truth of the allegations in Paragraph 65. To the extent that Paragraph 65 references
24 certain documents, those documents speak for themselves.

1 66. The Trust Defendants lack knowledge or information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 66.

3 67. The Trust Defendants lack knowledge or information sufficient to form a belief
4 as to the truth of the allegations in Paragraph 67.

5 **B. Plaintiff Sarah Douglass.**

6 68. The Trust Defendants lack knowledge or information sufficient to form a belief
7 as to the truth of the allegations in Paragraph 68.

8 69. The 2006-3 Trust admits the allegations in Paragraph 69. The remaining Trust
9 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
10 allegations contained in Paragraph 69.

11 70. The 2006-3 Trust admits the allegations in Paragraph 70. The remaining Trust
12 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 70.

14 71. The 2006-3 Trust admits that it properly brought two actions against Sarah
15 Douglass and obtained default judgments. The 2006-3 Trust lacks knowledge or information
16 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 71. The
17 remaining Trust Defendants lack knowledge or information sufficient to form a belief as to the
18 truth of any of the allegations contained in Paragraph 71.

19 72. The 2006-3 Trust admits, on April 24, 2017, it filed a summons and complaint
20 against Sarah Douglass in King County Superior Court Case No. 17-2-10605-4 and filed a
21 summons and complaint against her in King County Superior Court Case No. 17-2-10604-6.
22 The remaining Trust Defendants lack knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in Paragraph 72.

24 73. The 2006-3 Trust admits that it filed for the referenced default judgments on
25 April 25, 2017. The 2006-3 Trust states that those filings speak for themselves. The remaining
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1 Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the
2 allegations contained in Paragraph 73.

3 74. The 2006-3 Trust admits that it filed an Affidavit and Verification of Account
4 sworn to by Brian Jackson in the case styled *National Collegiate Student Loan Trust 2006-3 v.*
5 *Sarah Douglass*, King County Superior Court Case No. 17-2-10604-6 and the case styled
6 *National Collegiate Student Loan Trust 2006-3 v. Sarah Douglass*, King County Superior
7 Court Case No. 17-2-10605-4. The remaining Trust Defendants lack knowledge or information
8 sufficient to form a belief as to the truth of the allegations contained in Paragraph 74.

9 75. The Trust Defendants state that Mr. Jackson's affidavits in the cases styled
10 *National Collegiate Student Loan Trust 2006-3 v. Sarah Douglass*, King County Superior
11 Court Case No. 17-2-10604-6 and *National Collegiate Student Loan Trust 2006-3 v. Sarah*
12 *Douglass*, King County Superior Court Case No. 17-2-10605-4 speak for themselves.

13 76. The 2006-3 Trust admits that a copy of a document entitled "2006-3 Pool
14 Supplement" was attached to both of Mr. Jackson's affidavits. The 2006-3 Trust further states
15 that the "2006-3 Pool Supplement" speaks for itself. The remaining Trust Defendants
16 lack knowledge or information sufficient to form a belief as to the truth of the allegations
17 contained in Paragraph 76.

18 77. The 2006-3 Trust admits that a copy of a document entitled "2006-3 Sale
19 Agreement" was attached to both of Mr. Jackson's affidavits. The 2006-3 Trust further states
20 that the "2006-3 Sale Agreement" speaks for itself. The remaining Trust Defendants
21 lack knowledge or information sufficient to form a belief as to the truth of the allegations
22 contained in Paragraph 77.

23 78. The Trust Defendants state that the "2006-3 Sale Agreement" speaks for itself.

24 79. The Trust Defendants state that Mr. Jackson's affidavits speak for themselves.

25 80. The Trust Defendants deny the allegations in Paragraph 80.
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1 81. The 2006-3 Trust denies the allegations in the first sentence of Paragraph 81. In
 2 response to the remaining allegations in Paragraph 81, the 2006-3 Trust refers to King County
 3 Superior Court Case No. 17-2-10605-4 and King County Superior Court Case No. 17-2-10605-
 4 6 and states the dockets and filings in each action speak for themselves. The remaining Trust
 5 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
 6 allegations in Paragraph 81.

7 82. The 2006-3 Trust admits that any orders of the court entered on November 17,
 8 2017 speak for themselves. The remaining Trust Defendants lack knowledge or information
 9 sufficient to form a belief as to the truth of the allegations contained in Paragraph 82.

10 83. The 2006-3 Trust admits that any orders of the court entered on March 20, 2017
 11 speak for themselves. The remaining Trust Defendants lack knowledge or information
 12 sufficient to form a belief as to the truth of the allegations contained in Paragraph 83.

13 84. The 2006-3 Trust admits that any orders of the court entered on August 1, 2018
 14 speak for themselves. The remaining Trust Defendants lack knowledge or information
 15 sufficient to form a belief as to the truth of the allegations contained in Paragraph 84.

16 85. The Trust Defendants lack knowledge or information sufficient to form a belief
 17 as to the truth of the allegations in Paragraph 85.

18 **C. Plaintiffs Anthony Kim, Il Kim, and Daria Kim.**

19 86. The 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust
 20 admit the allegations in Paragraph 86 to the extent that they state Anthony Kim took out six
 21 student loans from Bank One and Bank of America totaling \$76,500. The 2005-2 Trust, 2005-3
 22 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust lack knowledge or information sufficient to
 23 form a belief as to the truth of the remaining allegations in Paragraph 86. The 2004-2 Trust
 24 lacks knowledge or information sufficient to form a belief as to the truth of any of the
 25 allegations in Paragraph 86.
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1 87. The Trust Defendants lack knowledge or information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 87.

3 88. The 2005-2 Trust denies that it served Daria Kim on January 23, 2015 with a
4 summons for a case filed by P&F on behalf of National Collegiate Student Loan Trust 2005-2
5 against Anthony Kim and Il Kim in Snohomish County Superior Court, Case No. 15-2-04465-
6 4. The 2005-2 Trust admits it brought a case styled *National Collegiate Loan Trust 2005-2 v.*
7 *Tony Kim and Daria Kim* (Snohomish County Superior Court Case No. 15-2-03144-7). The
8 2006-3 Trust admits that it brought a case styled *National Collegiate Loan Trust 2006-3 v.*
9 *Tony Kim and Il Kim* (Snohomish County Superior Court Case No. 15-2-04465-4). The 2005-2
10 Trust and 2006-3 Trust admit that a process server declared under penalty of perjury that he
11 served the summons and complaint in both of these suits on Daria Kim on January 23, 2015.
12 The remaining Trust Defendants lack knowledge or information sufficient to form a belief as to
13 the truth of any of the allegations in Paragraph 88.

14 89. The 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust
15 admit that Daria Kim made certain statements about having not received summonses and
16 complaints to P&F and that P&F controverted those statements. The 2005-2 Trust, 2005-3
17 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust lack knowledge or information sufficient to
18 form a belief as to the truth of the remaining allegations in Paragraph 89. The 2004-2 Trust
19 lacks knowledge or information sufficient to form a belief as to the truth of any of the
20 allegations in Paragraph 89.

21 90. The 2006-3 Trust admits that Anthony Kim filed a Pro Se Notice of Appearance
22 in the Snohomish County Superior Court Case No. 15-2-04465-4. The remaining Trust
23 Defendants lacks knowledge or information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 90.

1 91. The Trust Defendants deny the allegations of Paragraph 91 to the extent they
 2 state the 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust did not own
 3 the loans. The 2004-2 Trust lacks knowledge or information sufficient to form a belief as to the
 4 allegations regarding ownership of the loans. The Trust Defendants lack knowledge or
 5 information sufficient to form a belief as to the truth of the remaining allegations in Paragraph
 6 91 regarding the Kims' knowledge.

7 92. The 2006-3 Trust admits that Anthony Kim's Response to Complaint filed in
 8 Snohomish County Superior Court Case No. 15-2-04465-4 stated that he contacted P&F "to
 9 make good faith payment arrangements but they will not accept my arrangement of
 10 \$50.00/month." The 2006-3 Trust lacks knowledge or information sufficient to form a belief as
 11 to the truth of the remaining allegations in Paragraph 92. The remaining Trust Defendants lack
 12 knowledge or information sufficient to form a belief as to the truth of any of the allegations in
 13 Paragraph 92.

14 93. The 2006-3 Trust admits that Anthony Kim made several payments in
 15 connection with his purported promise to pay \$50.00 each month to repay the student loans at
 16 issue in Snohomish County Superior Court Case No. 15-2-04465-4, but then stopped. The
 17 2006-3 Trust lacks knowledge or information sufficient to form a belief as to the truth of the
 18 remaining allegations in Paragraph 93. The remaining Trust Defendants lack knowledge or
 19 information sufficient to form a belief as to the truth of any of the allegations in Paragraph 93.

20 94. The 2005-2 Trust admits that it served a bank levy and wage garnishment on
 21 Anthony Kim in June 2015. The 2005-3 Trust admits that it served a wage garnishment on
 22 Anthony Kim in October 2015. The 2007-4 Trust admits that it served a wage garnishment on
 23 Anthony Kim in July 2015. The remaining Trust Defendants lack knowledge or information
 24 sufficient to form a belief as to the truth of the allegations in Paragraph 94.

1 95. The 2005-2 Trust, 2005-3 Trust, 2006-1 Trust and 2007-4 Trust state that
2 declarations of service attesting to proper service were filed in each of the matters they brought
3 against Anthony Kim. The remaining Trust Defendants lack knowledge or information
4 sufficient to form a belief as to the truth of the allegations in Paragraph 95.

5 96. The 2005-2 Trust admits the allegations in Paragraph 96. The remaining Trust
6 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
7 allegations in Paragraph 96.

8 97. The 2005-2 Trust admits the allegations in Paragraph 97. The remaining Trust
9 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 97.

11 98. The 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, and 2007-4 Trust admit that they
12 filed an “Affidavit and Verification of Account” sworn to by Dudley Turner in Snohomish
13 County Superior Court Case Nos. 15-2-03144-7, 15-2-03146-3, 15-2-04016-1, 15-2-04015-2,
14 and 15-2-04014-4. The 2004-2 Trust and 2006-3 Trust lack knowledge or information
15 sufficient to form a belief as to the truth of the allegations in Paragraph 98.

16 99. The Trust Defendants state that Mr. Turner’s affidavits speak for themselves.

17 100. The 2006-1 Trust and 2005-3 Trust state that Mr. Turner’ affidavits, and any
18 attachments thereto, filed in Snohomish County Superior Case No’s. 15-2-04015-2 and 15-2-
19 04016-1 speak for themselves. The remaining Trust Defendants lack knowledge or information
20 sufficient to form a belief as to the truth of the allegations in Paragraph 100.

21 101. To the extent the allegations in Paragraph 101 relate to Mr. Turner’s affidavits
22 filed in Snohomish County Superior Case No’s. 15-2-04015-2 and 15-2-04016-1, the 2006-1
23 Trust and 2005-3 Trust state that the Mr. Turner’ affidavits, and any attachments thereto, speak
24 for themselves. The remaining Trust Defendants lack knowledge or information sufficient to
25 form a belief as to the truth of the allegations in Paragraph 101 so far as they relate to Mr.
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1 Turner's affidavits filed in Snohomish County Superior Case No's. 15-2-04015-2 and 15-2-
2 04016-1. To the extent the allegations in Paragraph 101 relate to other Pool Supplements, the
3 Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the
4 allegations.

5 102. The 2005-2 Trust and 2007-4 Trust state that the Mr. Turner' affidavits, and any
6 attachments thereto, filed in Snohomish County Superior Court Case No.'s 15-2-03144-7, 15-2-
7 03146-3, and 15-2-04014-4 speak for themselves. The remaining Trust Defendants lack
8 knowledge or information sufficient to form a belief as to the truth of the allegations in
9 Paragraph 102.

10 103. To the extent the allegations in Paragraph 103 relate to Snohomish County
11 Superior Court Case No.'s 15-2-03144-7, 15-2-03146-3, 15-2-04014-4, 15-2-04015-2 and 15-
12 2-04016-1, the 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, and 2007-4 Trust state that Mr.
13 Turner's affidavits, and the documents attached thereto, speak for themselves. To the extent the
14 allegations in Paragraph 103 relate to Snohomish County Superior Court Case No.'s 15-2-
15 03144-7, 15-2-03146-3, 15-2-04014-4, 15-2-04015-2 and 15-2-04016-1, the remaining Trust
16 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
17 allegations in Paragraph 103. To the extent the allegations of Paragraph 103 relate to other
18 affidavits, all of the Trust Defendants lack knowledge or information sufficient to form a belief
19 as to the truth of the allegations.

20 104. To the extent the allegations in Paragraph 104 relate to documents filed in
21 Snohomish County Superior Court Case No.'s 15-2-03144-7, 15-2-03146-3, 15-2-04014-4, 15-
22 2-04015-2 and 15-2-04016-1, the Trust Defendants state that those documents speak for
23 themselves. To the extent the allegations in Paragraph 104 relate to other documents, the Trust
24 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
25 allegations.
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1 105. The Trust Defendants state that Mr. Turner's affidavits filed in Snohomish
2 County Superior Court Case No.'s 15-2-03144-7, 15-2-03146-3, 15-2-04014-4, 15-2-04015-2
3 and 15-2-04016-1 speak for themselves.

4 106. The Trust Defendants lack knowledge or information sufficient to form a belief
5 as to the truth of the allegations in Paragraph 106.

6 107. The Trust Defendants lack knowledge or information sufficient to form a belief
7 as to the truth of the allegations in Paragraph 107.

8 108. The Trust Defendants lack knowledge or information sufficient to form a belief
9 as to the truth of the allegations in Paragraph 108.

10 109. The Trust Defendants deny the allegations in Paragraph 109.

11 110. The Trust Defendants deny the allegations in Paragraph 110.

12 111. The 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust
13 admit that after judgment was entered against Mr. Kim in case number 15-2-03144-7, P&F
14 reached out to him and offered to engage in settlement discussions with him. The 2004-2 Trust
15 lacks knowledge or information sufficient to form a belief as to the truth of the allegations in
16 Paragraph 111.

17 112. The 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust
18 admit that P&F continued in its efforts to try and settle with Mr. Kim on his admittedly owing
19 accounts. The 2004-2 Trust lacks knowledge or information sufficient to form a belief as to the
20 truth of the allegations in Paragraph 112.

21 113. The 2005-2 Trust, 2005-3 Trust, 2006-1 Trust, 2006-3 Trust and 2007-4 Trust
22 admit only that the court garnishment records speak for themselves, and deny any allegations
23 inconsistent with the court's records. The 2004-2 Trust lacks knowledge or information
24 sufficient to form a belief as to the truth of the allegations in Paragraph 113.

1 114. 2005-2 Trust admits only that the court garnishment records speak for
2 themselves, and denies any allegations inconsistent with the court's records. The remaining
3 Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 114.

5 115. The Trust Defendants lack knowledge or information sufficient to form a belief
6 as to the truth of the allegations in Paragraph 115.

7 116. The Trust Defendants lack knowledge or information sufficient to form a belief
8 as to the truth of the allegations in Paragraph 116.

9 **D. NCSLT's Collection History.**

10 117. The Trust Defendants admit that P&F has sometimes filed lawsuits in
11 Washington courts against borrowers located in Washington with regard to student loan debt
12 held by the Trust Defendants. The Trust Defendants lack knowledge or information sufficient
13 to form a belief as to the truth of the remaining allegations in Paragraph 117.

14 118. The allegations in Paragraph 118 are legal conclusions to which no response is
15 required. To the extent an answer is required, the Trust Defendants admit that since 2014, TSI
16 has serviced loans on their behalf. The Trust Defendants deny that TSI is their "debt collector."
17 The Trust Defendants lack knowledge or information sufficient to form a belief as to the truth
18 of the allegations in Paragraph 118 to the extent they relate to persons or entities other than the
19 Trust Defendants

20 119. The allegations in Paragraph 119 are legal conclusions to which no response is
21 required. To the extent a response is required, the Trust Defendants deny the allegations in
22 Paragraph 119.

23 120. The Trust Defendants do not understand the allegations set forth in Paragraph
24 120 sufficiently so as to be able to answer them. To the extent an answer is required, the Trust
25
26

1 Defendants lack knowledge or information sufficient to form a belief as to the truth of the
2 allegations set forth in Paragraph 120.

3 121. The Trust Defendants deny the allegations in Paragraph 121.

4 122. The Trust Defendants deny the allegations in Paragraph 122.

5 123. The Trust Defendants deny the allegations in Paragraph 123.

6 124. The Trust Defendants deny the allegations in Paragraph 124.

7 125. The Trust Defendants deny the allegations in Paragraph 125.

8 126. The Trust Defendants deny the allegations in Paragraph 126.

9 **E. Consumer Financial Protection Bureau's TSI Consent Order.**

10 127. The Trust Defendants lack knowledge or information sufficient to form a belief
11 as to the truth of the allegations in Paragraph 127, except to reference the Consent Order that
12 was filed on September 18, 2017 in the proceeding *In the Matter of Transworld Systems, Inc.*,
13 2017-CFPB-0018 (the "Consent Order"), which speaks for itself.

14 128. The Trust Defendants lack knowledge or information sufficient to form a belief
15 as to the truth of the allegations in Paragraph 128, except to reference the Consent Order, which
16 speaks for itself.

17 129. The Trust Defendants admit that a document that purports to be the Consent
18 Order is attached to this complaint as Exhibit A and state that the Consent Order speaks for
19 itself.

20 130. The Trust Defendants admit that a document that purports to be a Stipulation
21 and Consent to the Issuance of a Consent Order is attached to this complaint as Exhibit B and
22 further state that this document speaks for itself. The Trust Defendants lack knowledge or
23 information sufficient to form a belief as to the truth of the remaining allegations in Paragraph
24 130.

131. The Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 131, except to reference the Consent Order, which speaks for itself.

132. The Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 132, except to reference the Consent Order, which speaks for itself.

133. The Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 133, except to reference the Consent Order, which speaks for itself.

134. The allegations in Paragraph 134 contain legal conclusions to which no response is required. To the extent a response is required, the Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 134, except to reference the “TSI Stipulation,” which speaks for itself.

135. The allegations in Paragraph 135 contain legal conclusions to which no response is required. To the extent a response is required, the Trust Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 135, except to reference the Consent Order, which speaks for itself.

F. NCSLT’s Agreed to a Consent Judgment with the CFPB Pursuant to Which They Would Cease Litigation and All Collection Until They Verified They Had Documentation Proving The Right to Collect on Accounts.

136. The Trust Defendants admit that an action styled *Consumer Financial Protection Bureau v. The National Collegiate Master Student Loan Trust et al.*, Case No. 17-cv-01323-GMS (D. Del. Sept. 18, 2017) was filed on or about September 18, 2017 in the United States District Court for the District of Delaware and state that the pleadings and filings in that action speak for themselves.

137. The Trust Defendants deny the allegations in Paragraph 137.

1 138. The Trust Defendants admit that Plaintiffs attached as Exhibit C to this
 2 complaint a document entitled [Proposed] Consent Judgment in the matter styled *Consumer*
 3 *Financial Protection Bureau v. The National Collegiate Master Student Loan Trust et al.*, Case
 4 No. 17-cv-01323-GMS (D. Del. Sept. 18, 2017). The Trust Defendants deny that they
 5 consented to the [Proposed] Trust Consent Judgment and deny that the [Proposed] Trust
 6 Consent Judgment was ever entered by a court.

7 139. The Trust Defendants state that the quoted language of the [Proposed] Trust
 8 Consent judgment speaks for itself and otherwise deny the allegations in Paragraph 139.

9 140. The Trust Defendants deny the allegations in Paragraph 140.

10 141. The Trust Defendants deny the allegations in Paragraph 141.

11 142. The Trust Defendants deny the allegations in Paragraph 142.

12 143. The Trust Defendants deny the allegations in Paragraph 143.

13 144. The Trust Defendants deny the allegations in Paragraph 144.

14 145. The Trust Defendants deny the allegations in Paragraph 145.

15 146. The Trust Defendants admit the allegations in the first sentence of Paragraph
 16 146. The Trust Defendants admit that public filings show that TSI has sought to intervene in
 17 the CFPB Trust Action. The Trust Defendants lack knowledge or information sufficient to form
 18 a belief as to the truth of the remaining allegations in Paragraph 146.

19 **G. TSI and Attorney Networks.**

20 147. The Trust Defendants lack knowledge or information sufficient to form a belief
 21 as to the truth of the allegations in Paragraph 147.

22 148. The Trust Defendants lack knowledge or belief sufficient to form a belief as to
 23 the truth of the allegations in Paragraph 148.

24 149. The Trust Defendants lack knowledge or belief sufficient to form a belief as to
 25 the truth of the allegations in Paragraph 149.

23 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for class treatment. The Trust Defendants further deny any and all remaining allegations in Paragraph 156.

157. The allegations in Paragraph 157 are legal conclusions to which no response is required. To the extent a response is required, the Trust Defendants deny that such putative class or subclasses, or any putative class or subclasses, may be properly certified under Rule 23 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for class treatment. The Trust Defendants further deny any and all remaining allegations in Paragraph 157.

158. The allegations in Paragraph 158 are legal conclusions to which no response is required. To the extent a response is required, the Trust Defendants deny that such putative class or subclasses, or any putative class or subclasses, may be properly certified under Rule 23 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for class treatment. The Trust Defendants further deny any and all remaining allegations in Paragraph 158.

159. The allegations in Paragraph 159 are legal conclusions to which no response is required. To the extent a response is required, the Trust Defendants deny that such putative class or subclasses, or any putative class or subclasses, may be properly certified under Rule 23 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for class treatment. The Trust Defendants further deny any and all remaining allegations in Paragraph 159.

160. The allegations in Paragraph 160 are legal conclusions to which no response is required. To the extent a response is required, the Trust Defendants deny that such putative class or subclasses, or any putative class or subclasses, may be properly certified under Rule 23 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for

1 class treatment. The Trust Defendants further deny any and all remaining allegations in
2 Paragraph 160.

3 161. The allegations in Paragraph 161 are legal conclusions to which no response is
4 required. To the extent a response is required, the Trust Defendants deny that such putative
5 class or subclasses, or any putative class or subclasses, may be properly certified under Rule 23
6 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for
7 class treatment. The Trust Defendants further deny any and all remaining allegations in
8 Paragraph 161.

9 162. The allegations in Paragraph 162 are legal conclusions to which no response is
10 required. To the extent a response is required, the Trust Defendants deny that such putative
11 class or subclasses, or any putative class or subclasses, may be properly certified under Rule 23
12 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for
13 class treatment. The Trust Defendants further deny any and all remaining allegations in
14 Paragraph 162.

15 163. The allegations in Paragraph 163 are legal conclusions to which no response is
16 required. To the extent a response is required, the Trust Defendants deny that such putative
17 class or subclasses, or any putative class or subclasses, may be properly certified under Rule 23
18 of the Federal Rules of Civil Procedure or that Plaintiffs' claims are otherwise appropriate for
19 class treatment.

20 **VI. CAUSES OF ACTION**

21 **FIRST CLAIM FOR RELIEF**

22 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT,** 23 **15 U.S.C. § 1692 *et seq.*, *PER SE* VIOLATIONS OF** 24 **WASHINGTON'S CONSUMER PROTECTION ACT** **(Against Defendants TSI, P&F, and Cheung)**

25 164. In response to Paragraph 164, the Trust Defendants repeat their answers set forth
26

TRUST DEFENDANTS' AMENDED ANSWER
AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' SECOND
AMENDED COMPLAINT - 25
Case No. C18-1132 TSZ

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1 above and incorporate them by reference.

2 165. The First Claim for Relief is not asserted against the Trust Defendants.
 3 Therefore, the allegations in Paragraphs 165 do not require a response. To the extent a response
 4 is required, the Trust Defendants deny the allegations in Paragraph 165 to the extent they relate
 5 to the Trust Defendants and lack knowledge or information sufficient to form a belief as to the
 6 truth of the allegations in Paragraph 165 to the extent they relate to persons or entities other
 7 than the Trust Defendants.

8 **A. False, Deceptive, or Misleading Representations.**

9 166. The First Claim for Relief is not asserted against the Trust Defendants.
 10 Moreover, the allegations in Paragraph 166 are legal conclusions to which no response is
 11 required. To the extent a response is required, the Trust Defendants deny the allegations in
 12 Paragraph 166 to the extent they relate to the Trust Defendants and lack knowledge or
 13 information sufficient to form a belief as to the truth of the allegations in Paragraph 166 to the
 14 extent they relate to persons or entities other than the Trust Defendants.

15 167. The First Claim for Relief is not asserted against the Trust Defendants.
 16 Moreover, the allegations in Paragraph 167 are legal conclusions to which no response is
 17 required. To the extent a response is required, the Trust Defendants deny the allegations in
 18 Paragraph 167 to the extent they relate to the Trust Defendants and lack knowledge or
 19 information sufficient to form a belief as to the truth of the allegations in Paragraph 167 to the
 20 extent they relate to persons or entities other than the Trust Defendants.

21 **B. Unfair or Unconscionable Means to Collect or Attempt to Collect on a Debt.**

22 168. The First Claim for Relief is not asserted against the Trust Defendants.
 23 Moreover, the allegations in Paragraph 168 are legal conclusions to which no response is
 24 required. To the extent a response is required, the Trust Defendants deny the allegations in
 25 Paragraph 168 to the extent they relate to the Trust Defendants and lack knowledge or
 26

1 information sufficient to form a belief as to the truth of the allegations in Paragraph 168 to the
2 extent they relate to persons or entities other than the Trust Defendants.

3 169. The First Claim for Relief is not asserted against the Trust Defendants.
4 Moreover, the allegations in Paragraph 169 are legal conclusions to which no response is
5 required. To the extent a response is required, the Trust Defendants deny the allegations in
6 Paragraph 169 to the extent they relate to the Trust Defendants and lack knowledge or
7 information sufficient to form a belief as to the truth of the allegations in Paragraph 169 to the
8 extent they relate to persons or entities other than the Trust Defendants.

9 170. The First Claim for Relief is not asserted against the Trust Defendants.
10 Moreover, the allegations in Paragraph 170 are legal conclusions to which no response is
11 required. To the extent a response is required, the Trust Defendants deny the allegations in
12 Paragraph 170 to the extent they relate to the Trust Defendants and lack knowledge or
13 information sufficient to form a belief as to the truth of the allegations in Paragraph 170 to the
14 extent they relate to persons or entities other than the Trust Defendants.

15 171. The First Claim for Relief is not asserted against the Trust Defendants.
16 Moreover, the allegations in Paragraph 171 are legal conclusions to which no response is
17 required. To the extent a response is required, the Trust Defendants deny the allegations in
18 Paragraph 171 to the extent they relate to the Trust Defendants and lack knowledge or
19 information sufficient to form a belief as to the truth of the allegations in Paragraph 171 to the
20 extent they relate to persons or entities other than the Trust Defendants.

21 172. The First Claim for Relief is not asserted against the Trust Defendants.
22 Moreover, the allegations in Paragraph 172 are legal conclusions to which no response is
23 required. To the extent a response is required, the Trust Defendants deny the allegations in
24 Paragraph 172 to the extent they relate to the Trust Defendants and lack knowledge or
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1 information sufficient to form a belief as to the truth of the allegations in Paragraph 172 to the
2 extent they relate to persons or entities other than the Trust Defendants.

3 173. The First Claim for Relief is not asserted against the Trust Defendants.
4 Moreover, the allegations in Paragraph 173 are legal conclusions to which no response is
5 required. To the extent a response is required, the Trust Defendants deny the allegations in
6 Paragraph 173 to the extent they relate to the Trust Defendants and lack knowledge or
7 information sufficient to form a belief as to the truth of the allegations in Paragraph 173 to the
8 extent they relate to persons or entities other than the Trust Defendants.

9 174. The First Claim for Relief is not asserted against the Trust Defendants. To the
10 extent a response is nevertheless required, the Trust Defendants deny the allegations in
11 Paragraph 174.

12 175. The First Claim for Relief is not asserted against the Trust Defendants. To the
13 extent a response is nevertheless required, the Trust Defendants deny the allegations in
14 Paragraph 175.

15 176. The First Claim for Relief is not asserted against the Trust Defendants. To the
16 extent a response is nevertheless required, the Trust Defendants deny the allegations in
17 Paragraph 176.

18 177. The First Claim for Relief is not asserted against the Trust Defendants. To the
19 extent a response is nevertheless required, the Trust Defendants deny the allegations in
20 Paragraph 177.

21 178. The First Claim for Relief is not asserted against the Trust Defendants.
22 Moreover, the allegations in Paragraph 178 are legal conclusions to which no response is
23 required. To the extent a response is required, the Trust Defendants deny the allegations in
24 Paragraph 178 to the extent they relate to the Trust Defendants and lack knowledge or
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1 information sufficient to form a belief as to the truth of the allegations in Paragraph 178 to the
2 extent they relate to persons or entities other than the Trust Defendants.

3 179. The First Claim for Relief is not asserted against the Trust Defendants. To the
4 extent a response is nevertheless required, the Trust Defendants deny the allegations in
5 Paragraph 179.

6 180. The First Claim for Relief is not asserted against the Trust Defendants. To the
7 extent a response is nevertheless required, the Trust Defendants deny the allegations in
8 Paragraph 180.

9
10 **SECOND CLAIM FOR RELIEF**
11 **VIOLATIONS OF WASHINGTON'S CONSUMER PROTECTION ACT,**
12 **RCW 19.86 *et seq.***
(Against All Defendants)

13 181. In response to Paragraph 181, the Trust Defendants repeat their answers set forth
14 above and incorporate them by reference.

15 182. The allegations in Paragraph 182 are legal conclusions to which no response is
16 required. To the extent a response is required, the Trust Defendants deny the allegations in
17 Paragraph 182 to the extent they relate to the Trust Defendants and lack knowledge or
18 information sufficient to form a belief as to the trust of the allegations to the extent they relate
19 to persons or entities other than the Trust Defendants.

20 183. The allegations in Paragraph 183 are legal conclusions to which no response is
21 required. To the extent a response is required, the Trust Defendants deny the allegations in
22 Paragraph 183.

23 184. The allegations in Paragraph 184 are legal conclusions to which no response is
24 required. To the extent a response is required, the Trust Defendants deny the allegations in
25 Paragraph 184 to the extent they relate to the Trust Defendants and lack knowledge or
26

1 information sufficient to form a belief as to the trust of the allegations to the extent they relate
2 to persons or entities other than the Trust Defendants.

3 185. The allegations in Paragraph 185 are legal conclusions to which no response is
4 required. To the extent a response is required, the Trust Defendants deny the allegations in
5 Paragraph 185.

6 186. The allegations in Paragraph 186 are legal conclusions to which no response is
7 required. To the extent a response is required, the Trust Defendants deny the allegations in
8 Paragraph 186.

9 **GENERAL DENIAL AND PRAYER FOR RELIEF**

10 The Trust Defendants deny each and every allegation, statement, and matter not
11 expressly admitted above. The Trust Defendants deny that Plaintiffs are entitled to the relief
12 requested at the conclusion of Plaintiffs' SAC, or to any relief whatsoever.

13 **AFFIRMATIVE DEFENSES**

14 On March 23, 2021, the Trust Defendants filed their Answer and Affirmative Defenses
15 to the Second Amended Complaint in this action. (ECF 140.) Plaintiffs subsequently moved to
16 strike Defendants' affirmative defenses in their entirety and Defendants agreed to amend their
17 defenses pursuant to a stipulation approved by the Court on May 14, 2021. (ECF 150, 151). By
18 filing these amended defenses, the Trust Defendants do not intend to waive any defenses and
19 expressly reserve the right to further amend should discovery or further proceedings indicate
20 that additional defenses may be applicable in this action.

21 Without admitting any of the facts alleged in the SAC, the Trust Defendants hereby
22 assert and allege the following affirmative defenses, without assuming the burden of proving
23 any fact, issue, or element of a cause of action where such burden properly belongs to
24 Plaintiffs, and without prejudice to the Trust Defendants' right to argue that Plaintiffs bear the
25 burden of proof as to any one or more of said defenses. Furthermore, all such defenses are
26

1 pleaded in the alternative and do not constitute an admission of liability or an admission that
 2 Plaintiffs are entitled to any relief whatsoever. The Trust Defendants presently have
 3 insufficient knowledge or information as to whether they may have additional, yet unasserted,
 4 defenses. The Trust Defenses therefore reiterate that they reserve the right to assert additional
 5 defenses and/or additional facts in support of the asserted defenses in the event discovery or
 6 further proceedings indicate such additional defenses or facts would be appropriate:

7 1. Plaintiffs' claim under the Washington Consumer Protection Act is barred and
 8 precluded, or limited in whole or in part, by the applicable statute of limitation, time limits to
 9 exercise rights, and/or statutes of repose to the extent it is based on conduct occurring before
 10 August 2, 2012. RCW 19.86 carries a statute of limitations of four years from the date the
 11 action accrued. To the extent any of the alleged violations took place more than four years
 12 before the case was filed, claims based on them are barred under the RCW. Plaintiffs have
 13 alleged no facts and there are not facts upon which a Court should grant equitable tolling as to
 14 the Trust Defendants.

15 2. Plaintiffs' claims against the Trust Defendants are barred and precluded, in
 16 whole or in part, by their failure to mitigate any alleged loss, injury or damages. To the extent
 17 the Plaintiffs failed to mitigate, minimize or avoid any damages they allegedly sustained,
 18 recovery against the Trust Defendants, if any must be reduced by that amount. Among other
 19 things, Plaintiffs were timely and properly served with process in the underlying state-court
 20 lawsuits identified in the SAC. Plaintiffs failed to appear and defend the lawsuits despite
 21 having received notice. To the extent damages flow from the default judgments identified in the
 22 SAC, or from acts or omissions in connection with those lawsuits, such damages are a result of
 23 Plaintiffs' failure to mitigate their own damages.

24 3. If and to the extent that Plaintiffs have suffered damages recoverable from the
 25 Trust Defendants, which the Trust Defendants deny, those damages may be set off against any
 26

1 amounts that Plaintiffs owe on debts or other liabilities to the Trust Defendants. Plaintiffs each
 2 obtained student loans which loans are currently due and owing to the Trust Defendants.
 3 Plaintiffs are in default on their repayment obligations. To the extent the Trusts should be found
 4 liable for any amount of damages to Plaintiffs, any amount of damages must be set off by the
 5 outstanding loan amounts owed to the Trusts plus accrued interest.

6 4. Plaintiffs' claims are barred, in whole or in part, because the Trust Defendants
 7 are not liable for any alleged acts or omissions, if any, of any parties other than the Trust
 8 Defendants. The Trust Defendants are separate entities from the other Defendants and from
 9 one another and the other Defendants' alleged acts or omissions may not be imputed to the
 10 Trust Defendants. The Trust Defendants did not direct or control any alleged acts or omissions
 11 committed by any of the other Defendants. The Trust Defendants did not direct, authorize, or
 12 have knowledge of any alleged misrepresentations or actions taken in alleged contravention of
 13 any state or federal statute. To the extent Plaintiffs suffered damages (if any) proximately
 14 caused by or contributed to by the acts or omissions of other parties, such fault should be
 15 compared and allocated to those parties under Chapter 4.22 RCW.

16 5. Plaintiffs' claims are barred, in whole or in part, by their own lack of diligence,
 17 wrongdoing, or negligence. Plaintiffs obtained student loans to cover the costs of schools that
 18 each attended. They failed to repay the loans despite their contractual obligations to do so.
 19 Plaintiffs also were timely and properly served with process in the underlying state-court
 20 lawsuits identified in the SAC. Plaintiffs failed to appear and defend the lawsuits despite
 21 having received notice. To the extent damages flow from the default judgments identified in the
 22 SAC, which the Trust Defendants deny, those damages are a result of Plaintiff's own lack of
 23 diligence, wrongdoing, and negligence.

24 6. Plaintiffs' claims are barred, in whole or in part, because, and to the extent that,
 25 any relief or recovery would unjustly enrich Plaintiffs. Plaintiffs each took out student loans,
 26

1 which loans are currently owned by various Trust Defendants. Plaintiffs all have outstanding
2 amounts to be paid on each of those student loans and the outstanding amounts are now due
3 and owing to the Trusts Defendants. Plaintiffs received the benefits of the student loans but
4 have failed to repay them as required. Should Plaintiffs be excused from repaying the loans to
5 the Trust Defendants, Plaintiffs will receive the benefit of those loans while unfairly avoiding
6 payment for that benefit, resulting in unjust enrichment to Plaintiffs.

7 7. Plaintiffs are barred from asserting their purported claims under the doctrines of
8 res judicata and collateral estoppel. The SAC acknowledges that there has been prior litigation
9 on the issue of Plaintiffs' debts and their respective defaults on each of their respective loans.
10 Each of the Plaintiffs acknowledge there were default judgments taken against them. Further,
11 each of the Plaintiffs complain of affidavits filed in their respective actions which supported the
12 respective Trust's position that it owned the debt. The issue of whether the Trusts own the
13 loans, based upon the affidavits submitted, was previously adjudicated on the merits between
14 the parties to the instant action.

15 8. To the extent that the Trust Defendants become aware of additional defenses not
16 cited to above, whether based upon facts currently known or facts discovered subsequent to the
17 filing of the Amended Answer, the Trust Defendants reserve the right to assert additional
18 affirmative defenses in this matter.

19 **WHEREFORE**, the Trust Defendants respectfully request that this action be dismissed
20 with prejudice, that the Trust Defendants receive all of their costs and reasonable attorney's
21 fees, and that the Court award such other and further relief to the Trust Defendants as it deems
22 just and proper.

1 DATED this 3rd day of June, 2021.

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National Collegiate Student Loan Trust 2006-3,
and National Collegiate Student Loan Trust
2007-4

TRUST DEFENDANTS' AMENDED ANSWER
AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' SECOND
AMENDED COMPLAINT - 34
Case No. C18-1132 TSZ

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